

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:10CV77-1-MU

CHAD TYRONE KINCAID,)
)
Plaintiff,)
)
v.)
)
CALDWELL COUNTY, et al.,)
)
Defendants.)
_____)

ORDER

THIS MATTER comes before the Court upon Plaintiff's Application for Certificate of Appealability and Affidavit in Support of Motion to Proceed on Appeal In Forma Pauperis (Doc. No. 9), filed August 1, 2010.

Pursuant to the Prisoner Litigation Reform Act (PLRA), all prisoner plaintiffs are required to pay the full filing fee for civil actions and appeals. 28 U.S.C. § 1915(b)(1). Those prisoner plaintiffs who are unable to pay the full filing fee are required to pay the filing fee in monthly installments which will be deducted from their prisoner trust accounts until the entire filing fee has been paid. Id. at § 1915(b)(2). Consequently, Plaintiff's Motion to Proceed on Appeal In Forma Pauperis is denied as moot.

Plaintiff has also filed a motion seeking a certificate of appealability. Such certificates are required for appeals of final orders in habeas corpus proceedings or proceedings under 28 U.S.C. § 2255. 28 U.S.C. § 2253(c). A plaintiff in a non-habeas civil action is not required to obtain a certificate of appealability. As such, Plaintiff's Application for Certificate of Appealability is denied.

IT IS, THEREFORE, ORDERED that Plaintiff's Application for Certificate of Appealability and Affidavit in Support of Motion to Proceed on Appeal In Forma Pauperis (Doc. No. 9) is **DENIED**.

Signed: August 16, 2010

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

